

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

PETER JAMES CARR,

Plaintiff,

v.

RYAN HERRINGTON,

Defendants.

Case No. 3:20-cv-05794-BHS-TLF

ORDER GRANTING EXTENSION  
AND DENYING REQUEST FOR  
APPOINTMENT OF COUNSEL

This matter is before the Court on plaintiff's motion for an extension and for appointment of counsel. Dkts. 21, 22.

The Court previously declined to serve Plaintiff's complaint but gave him leave to file an amended complaint. Dkt. 7. The Court has granted two extensions of this deadline, due to ongoing COVID-19 related lockdowns and restrictions at the facility at which Plaintiff is confined that have restricted Plaintiff's access to the law library. Dkt. 14, 19. Plaintiff has requested a further extension, stating that the facility-wide restrictions and lockdowns have continued and prevented Plaintiff's access to the law library or legal materials needed to prepare his amended complaint. Dkts. 21, 22. The Court GRANTS Plaintiff's request for an extension. Plaintiff has not stated the length of the extension he seeks; the Court grants an extension of 90 days. Plaintiff's amended complaint shall be filed on or before **July 26, 2021**.

1 Plaintiff's motion also repeats his request for appointment of counsel, which the  
2 Court twice denied. Dkts. 14, 19. Counsel may be appointed in Section 1983 actions  
3 only in exceptional circumstances, which depend upon "the likelihood of success on the  
4 merits [and] the ability of the petitioner to articulate his claims *pro se* in light of the  
5 complexity of the legal issues involved." *Wilborn v. Escalderon*, 789 F.2d 1328, 1331  
6 (9th Cir. 1986) (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). As the  
7 Court previously determined in denying Plaintiff's first request for counsel, these factors  
8 do not support the appointment of counsel at this time.

9 Plaintiff contends that his difficulty accessing the law library and legal materials  
10 constitute extraordinary circumstances, and he has expressed frustration with delays in  
11 this case. Dkt. 22. But the COVID-19 pandemic has imposed unusual shutdowns  
12 throughout the legal system and the prisons. The pandemic-related challenges Plaintiff  
13 is experiencing are no different from those faced by every other *pro se* litigant during  
14 these challenging times. This case does not pose uniquely complex issues or present  
15 circumstances that set it apart from other *pro se* cases; plaintiff's likelihood of success  
16 cannot be accurately assessed in the absence of a viable complaint, and plaintiff has  
17 demonstrated he is capable of articulating his claims. Plaintiff's request for the  
18 appointment of counsel is therefore DENIED.

19 Dated this 27th day of April, 2021.

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22 Theresa L. Fricke  
23 United States Magistrate Judge  
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